

ADAMS, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID LEE BOESEN,

Defendant.

) CASE NOS. 1:16CR113
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)
)
) Judge John R. Adams
)
) ORDER
)

Pending before the Court is Defendant's motion for compassionate release (Doc. 39) and the Government's motion to dismiss that motion (Doc. 41). Upon review, the motions are DENIED.

Within the COVID-19 backdrop, the Sixth Circuit explained this Court's duties and obligations when considering a motion for compassionate release as follows:

"In resolving those motions, district courts now face two questions: (1) whether extraordinary and compelling circumstances merit a sentence reduction; and (2) whether the applicable § 3553(a) factors warrant such a reduction. A third consideration, the § 1B1.13 policy statement, is no longer a requirement courts must address in ruling on defendant-filed motions." *Hampton*, 985 F.3d at 531. To that end, district courts need not confine themselves to evaluating "extraordinary and compelling reasons" as defined by the Sentencing Commission in the § 1B1.13 policy statement. *Elias*, 984 F.3d at 519.

United States v. Montero, 842 F. App'x 1007, 1008 (6th Cir. 2021). "A district court has 'full discretion' in determining whether an extraordinary and compelling reason justifies compassionate release." *Id.* at 1009.

The Sixth Circuit has noted that a district court does not abuse its discretion when denying

a motion when the prison facility at issue has no positive cases or otherwise has COVID under control. *See United States v. Elias*, 984 F.3d 516, 521 (6th Cir. 2021) (finding that it was not an abuse of discretion to deny compassionate release when Alderson had no reported cases and therefore only presented a speculative risk to the movant).

The Court notes that Defendant is currently housed at FCI Fairton, a facility that currently has no positive cases within its entire inmate population. Accordingly, Defendant's motion for compassionate release presents only a speculative risk. The motion for compassionate release is DENIED.

IT IS SO ORDERED.

January 24, 2024
Date

/s/John R. Adams
JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE